

(d) *Identification of equipment.* The authorized common carrier receiving the equipment shall identify equipment operated by it in interchange service as follows:

(1) The authorized common carrier shall identify power units in accordance with the FHWA's requirements in 49 CFR part 390 of this chapter (Identification of Vehicles). Before giving up possession of the equipment, the carrier shall remove all identification showing it as the operating carrier.

(2) Unless a copy of the interchange agreement is carried on the equipment, the authorized common carrier shall carry a statement with each vehicle during interchange service certifying that it is operating the equipment. The statement shall also identify the equipment by company or State registration number and shall show the specific point of interchange, the date and time it assumes responsibility for the equipment, and the use to be made of the equipment. This statement shall be signed by the parties to the interchange agreement or their authorized representatives. The requirements of this paragraph shall not apply where the equipment to be operated in interchange service consists only of trailers or semitrailers.

(3) Authorized carriers under common ownership and control may interchange equipment with each other without complying with the requirements of paragraph (d)(1) of this section pertaining to removal of identification from equipment.

(e) *Connecting carriers considered as owner*—An authorized carrier receiving equipment in connection with a through movement shall be considered to the owner of the equipment for the purpose of leasing the equipment to other authorized carriers in furtherance of the movement to destination or the return of the equipment after the movement is completed.

[44 FR 4681, Jan. 23, 1979. Redesignated at 61 FR 54707, Oct. 21, 1996, as amended at 62 FR 15424, Apr. 1, 1997; 63 FR 40838, July 31, 1998]

## Subpart E—Private Carriers and Shippers

### § 376.42 Lease of equipment by regulated carriers.

Authorized carriers may lease equipment and drivers from private carriers, for periods of less than 30 days, in the manner set forth in § 376.22.

[49 FR 9570, Mar. 14, 1984, as amended at 51 FR 37034, Oct. 17, 1986; 62 FR 15424, Apr. 1, 1997]

## PART 377—PAYMENT OF TRANSPORTATION CHARGES

### Subpart A—Handling of C.O.D. Shipments

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AUTHORITY: 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.48.

### Subpart A—Handling of C.O.D. Shipments

SOURCE: 32 FR 20050, Dec. 20, 1967, unless otherwise noted. Redesignated at 61 FR 54708, Oct. 21, 1996.

#### § 377.101 Applicability.

The rules and regulations in this part apply to the transportation by motor vehicle of c.o.d. shipments by all common carriers of property subject to 49 U.S.C. 13702, except such transportation which is auxiliary to or supplemental of transportation by railroad

and performed on railroad bills of lading, and except such transportation which is performed for freight forwarders and on freight forwarder bills of lading.

[32 FR 20050, Dec. 20, 1967. Redesignated at 61 FR 54708, Oct. 21, 1996, as amended at 62 FR 15424, Apr. 1, 1997]

**§ 377.103 Tariff requirements.**

No common carrier of property subject to the provisions of 49 U.S.C. 13702, except as otherwise provided in § 377.101, shall render any c.o.d. service unless such carrier has published, posted and filed tariffs which contain the rates, charges and rules governing such service, which rules shall conform to the regulations in this part.

[32 FR 20050, Dec. 20, 1967. Redesignated at 61 FR 54708, Oct. 21, 1996, as amended at 62 FR 15424, Apr. 1, 1997]

**§ 377.105 Collection and remittance.**

Every common carrier of property subject to 49 U.S.C. 13702, except as otherwise provided in § 377.101, which chooses to provide c.o.d. service may publish and maintain, or cause to be published and maintained for its account, a tariff or tariffs which set forth nondiscriminatory rules governing c.o.d. service and the collection and remittance of c.o.d. funds. Alternatively, any carrier that provides c.o.d. service, but does not wish to publish and maintain, or cause to be published and maintained, its own nondiscriminatory tariff, may adopt a rule requiring remittance of each c.o.d. collection directly to the consignor or other person designated by the consignor as payee within fifteen (15) days after delivery of the c.o.d. shipment to the consignee.

[52 FR 45966, Dec. 3, 1987, as amended at 62 FR 15424, Apr. 1, 1997]

**Subpart B—Extension of Credit to Shippers by Motor Common Carriers, Water Common Carriers, and Household Goods Freight Forwarders**

SOURCE: 50 FR 2290, Jan 16, 1985, unless otherwise noted. Redesignated at 61 FR 54709, Oct. 21, 1996.

**§ 377.201 Scope.**

(a) *General.* These regulations apply to the extension of credit in the transportation of property under Federal Highway Administration regulation by motor carriers and household goods freight forwarders, except as otherwise provided.

(b) *Exceptions.* These regulations do not apply to—

- (1) Contract carriage operations.
- (2) Transportation for—
  - (i) The United States or any department, bureau, or agency thereof,
  - (ii) Any State, or political subdivision thereof,
  - (iii) The District of Columbia.
- (3) Property transportation incidental to passenger operations.

[50 FR 2290, Jan. 16, 1985, as amended at 51 FR 44297, Dec. 9, 1986; 62 FR 15424, Apr. 1, 1997]

**§ 377.203 Extension of credit to shippers.**

(a) *Authorization to extend credit.* (1) A carrier that meets the requirements in paragraph (a)(2) of this section may—

- (i) Relinquish possession of freight in advance of the payment of the tariff charges, and
- (ii) Extend credit in the amount of such charges to those who undertake to pay them (such persons are called *shippers* in this part).

(2) For such authorization, the carrier shall take reasonable actions to assure payment of the tariff charges within the credit periods specified—

- (i) In this part, or
- (ii) In tariff provisions published pursuant to the regulations in paragraph (d) of this section.

(b) *When the credit period begins.* The credit period shall begin on the day following presentation of the freight bill.

(c) *Length of credit period.* Unless a different credit period has been established by tariff publication pursuant to paragraph (d) of this section, the credit period is 15 days. It includes Saturdays, Sundays, and legal holidays.

(d) *Carriers may establish different credit periods in tariff rules.* Carriers may publish tariff rules establishing credit periods different from those in paragraph (c) of this section. Such credit periods shall not be longer than 30 calendar days.

(e) *Service charges.* (1) Service charges shall not apply when credit is extended and payments are made within the standard credit period. The term *standard credit period*, as used in the preceding sentence, means—

(i) The credit period prescribed in paragraph (c) of this section, or

(ii) A substitute credit period published in a tariff rule pursuant to the authorization in paragraph (d) of this section.

(2) Carriers may, by tariff rule, extend credit for an additional time period, subject if they wish to a service charge for that additional time. The combined length of the carrier's standard credit period (as defined in paragraph (e)(1) of this section) and its additional credit period shall not exceed the 30-day maximum credit period prescribed in paragraph (d) of this section. When such a tariff rule is in effect, shippers may elect to postpone payment until the end of the extended credit period if, in consideration thereof, they include any published service charges when making their payment.

(3) Carriers may, by tariff rule, establish service charges for payments made after the expiration of an authorized credit period. Such a rule shall—

(i) Institute such charges on the day following the last day of an authorized credit period, and

(ii) Notify shippers—

(A) That its only purpose is to prevent a shipper who does not pay on time from having free use of funds due to the carrier,

(B) That it does not sanction payment delays, and

(C) That failure to pay within the authorized credit period will, despite this provision for such charges, continue to require the carrier, before again extending credit, to determine in good faith whether the shipper will comply with the credit regulations in the future.

(4) Tariff rules that establish charges pursuant to paragraph (e) (2) or (3) of this section may establish minimum charges.

(f) *Discounts.* Carriers may, by tariff rule, authorize discounts for early freight bill payments when credit is extended.

(g)(1) *Collection expense charges.* Carriers may, by tariff rule, assess reasonable and certain liquidated damages for all costs incurred in the collection of overdue freight charges. Carriers may use one of two methods in their tariffs:

(i) The first method is to assess liquidated damages as a separate additional charge to the unpaid freight bill. In doing so, the tariff rule shall disclose the exact amount of the charges by stating either a dollar or specified percentage amount (or a combination of both) of the unpaid freight bill. The tariff shall further specify the time period (which shall at least allow for the authorized credit period) within which the shipper must pay to avoid such liquidated damages.

(ii) The second method is to require payment of the full, nondiscounted rate instead of the discounted rate otherwise applicable. The difference between the discount and the full rate constitutes a carrier's liquidated damages for its collection effort. Under this method the tariff shall identify the discount rates that are subject to the condition precedent and which require the shipper to make payment by a date certain. The date certain may not be set to occur by the carrier until at least after the expiration of the carrier's authorized credit period.

(2) The damages, the timing of their applicability, and the conditions, if any, as provided by the tariff-rule methods allowed under paragraphs (g)(1) (i) and (ii) of this section also:

(i) Shall be clearly described in the tariff rule;

(ii) Shall be applied without unlawful prejudice and/or unjust discrimination between similarly situated shippers and/or consignees;

(iii) Shall be applied only to the non-payment of original, separate and independent freight bills and shall not apply to aggregate *balance-due* claims sought for collection on past shipments by a bankruptcy trustee, or any other person or agent;

(iv) Shall not apply to instances of clear clerical or ministerial error such as non-receipt of a carrier's freight bill, or shipper's payment check lost in the mail, or carrier mailing of the freight bill to the wrong address;

(v) Shall not apply in any way to a charge for a transportation service if the carrier's bill of lading independently provides that the shipper is liable for fees incurred by the carrier in the collection of freight charges on that same transportation service;

(vi) shall be applied only after the authorized credit period, and when the carrier has issued a revised freight bill or notice of imposition of collection expense charges for late payment within 90 days after expiration of the authorized credit period.

(3) As an alternative to the tariff-rule methods allowed under paragraphs (g)(1) (i) and (ii) of this section, a carrier may, wholly outside of its tariff, assess collection charges though contract terms in a bill of lading. By using the carrier and its bill of lading, the shipper accepts the bill of lading terms.

(h) *Discrimination prohibited.* Tariff rules published pursuant to paragraphs (d), (e), and (f) of this section shall not result in unreasonable discrimination among shippers.

[50 FR 2290, Jan 16, 1985, as amended at 53 FR 6991, Mar. 4, 1988; 54 FR 30748, July 24, 1989]

**§ 377.205 Presentation of freight bills.**

(a) *"To be prepaid" shipments.* (1) On "to be prepaid" shipments, the carrier shall present its freight bill for all transportation charges within the time period prescribed in paragraph (a)(2) of this section, except—

(i) As noted in paragraph (d) of this section, or

(ii) As otherwise excepted in this part.

(2) The time period for a carrier to present its freight bill for all transportation charges shall be 7 days, measured from the date the carrier received the shipment. This time period does not include Saturdays, Sundays, or legal holidays.

(b) *"Collect" shipments.* (1) On "collect" shipments, the carrier shall present its freight bill for all transportation charges within the time period prescribed in paragraph (b)(2) and of this section, except—

(i) As noted in paragraph (d) of this section, or

(ii) As otherwise excepted in this part.

(2) The time period for a carrier to present its freight bill for all transportation charges shall be 7 days, measured from the date the shipment was delivered at its destination. This time period does not include Saturdays, Sundays, or legal holidays.

(c) *Bills or accompanying written notices shall state penalties for late payment, credit time limits and service charge and/or collection expense charge and discount terms.* When credit is extended, freight bills or a separate written notice accompanying a freight bill or a group of freight bills presented at one time shall state that "failure timely to pay freight charges may be subject to tariff penalties" (or a statement of similar import). The bills or other notice shall also state the time by which payment must be made and any applicable service charge and/or collection expense charge and discount terms.

(d) *When the carrier lacks sufficient information to compute tariff charges.* (1) When information sufficient to enable the carrier to compute the tariff charges is not then available to the carrier at its billing point, the carrier shall present its freight bill for payment within 7 days following the day upon which sufficient information becomes available at the billing point. This time period does not include Saturdays, Sundays, or legal holidays.

(2) A carrier shall not extend further credit to any shipper which fails to furnish sufficient information to allow the carrier to render a freight bill within a reasonable time after the shipment is tendered to the origin carrier.

(3) As used in this paragraph, the term "shipper" includes, but is not limited to, freight forwarders, and shippers' associations and shippers' agents.

[50 FR 2290, Jan 16, 1985, as amended at 54 FR 30748, July 24, 1989; 62 FR 15424, Apr. 1, 1997]

**§ 377.207 Effect of mailing freight bills or payments.**

(a) *Presentation of freight bills by mail.* When carriers present freight bills by mail, the time of mailing shall be deemed to be the time of presentation of the bills. The term *freight bills*, as used in this paragraph, includes both paper documents and billing by use of electronic media such as computer

tapes or disks, when the mails are used to transmit them.

(b) *Payment by mail.* When shippers mail acceptable checks, drafts, or money orders in payment of freight charges, the act of mailing them within the credit period shall be deemed to be the collection of the tariff charges within the credit period for the purposes of the regulations in this part.

(c) *Disputes as to date of mailing.* In case of dispute as to the date of mailing, the postmark shall be accepted as such date.

#### § 377.209 Additional charges.

When a carrier—

(a) Has collected the amount of tariff charges represented in a freight bill presented by it as the total amount of such charges, and

(b) Thereafter presents to the shipper another freight bill for additional charges—

the carrier may extend credit in the amount of such additional charges for a period of 30 calendar days from the date of the presentation of the freight bill for the additional charges.

#### § 377.211 Computation of time.

Time periods involving calendar days shall be calculated pursuant to 49 CFR 386.32(a).

[50 FR 2290, Jan 16, 1985. Redesignated at 61 FR 54709, Oct. 21, 1996, as amended at 62 FR 15424, Apr. 1, 1997]

#### § 377.213 [Reserved]

#### § 377.215 Household goods shipments by motor common carriers.

(a) *Exceptions—Household goods “collect on delivery” shipments.* The regulations in the other sections of this part and in paragraph (c) of this section do not apply when the carrier is required by 49 CFR 375.3(d) to relinquish possession of an otherwise “collect on delivery” household goods shipment in advance of payment of all of the charges.

(b) *Charge card reversed transactions.* The regulations of this part apply when—

(1) Charges for household goods movements are paid by use of charge cards pursuant to 49 CFR 375.19, and

(2) The shipper forces an involuntary extension of credit by the carrier by causing the charge card issuer to reverse the charge transaction and charge payments back to the carrier's account.

(c) *Exceptions—House goods credit shipments.* The provisions in paragraphs (c) (1) through (3) of this section are exceptions to the other regulations in this part. They apply to credit extensions for household goods transportation by motor common carriers (except as provided in paragraph (a) of this section)—

(1) A freight bill shall be presented within 15 days (excluding Saturdays, Sundays, and legal holidays) of the date of delivery of a shipment at its destination.

(2) The credit of period is 7 days (excluding Saturdays, Sundays, and legal holidays).

(3) Motor Common carriers of household goods must provide in their tariffs that—

(i) The credit period shall automatically be extended to a total of 30 calendar days for any shipper who has not paid the carrier's freight bill within the 7-day period.

(ii) Such shipper will be assessed a service charge by the carrier equal to 1 percent of the amount of the freight bill, subject to a \$10 minimum charge, for such extension of the credit period, and

(iii) No such carrier shall grant credit to any shipper who fails to pay a duly presented freight bill within the 30-day period, unless and until such shipper affirmatively satisfies the carrier that all future freight bills duly presented will be paid strictly in accordance with the rules and regulations prescribed by the Commission for the settlement of carrier rates and charges.

[50 FR 2290, Jan 16, 1985. Redesignated at 61 FR 54709, Oct. 21, 1996, as amended at 62 FR 15424, Apr. 1, 1997]

#### § 377.217 Interline settlement of revenues.

Nothing in this part shall be interpreted as affecting the interline settlement of revenues from traffic which is

transported over through routes composed of lines of common carriers subject to the Secretary's jurisdiction under 49 U.S.C. subtitle IV, part B.

[50 FR 2290, Jan. 16, 1985. Redesignated at 61 FR 54709, Oct. 21, 1996, as amended at 62 FR 15424, Apr. 1, 1997]

## **PART 378—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS**

### **Sec.**

- 378.1 Applicability.
- 378.2 Definitions.
- 378.3 Filing and processing claims.
- 378.4 Documentation of claims.
- 378.5 Investigation of claims.
- 378.6 Claim records.
- 378.7 Acknowledgment of claims.
- 378.8 Disposition of claims.
- 378.9 Disposition of unidentified payments, overcharges, duplicate payments, and overcollections not supported by claims.

**AUTHORITY:** 49 U.S.C. 13321, 14101, 14704, and 14705; 49 CFR 1.48.

**SOURCE:** 43 FR 41040, Sept. 14, 1978, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

### **§378.1 Applicability.**

The regulations set forth in this part govern the processing of claims for overcharge, duplicate payment, or overcollection for the transportation of property in interstate or foreign commerce by motor common carriers and household goods freight forwarders subject to 49 U.S.C. subtitle IV, part B.

[43 FR 41040, Sept. 14, 1978, as amended at 51 FR 44297, Dec. 9, 1986; 62 FR 15424, Apr. 1, 1997]

### **§378.2 Definitions.**

(a) *Carrier* means a motor common carrier or household goods freight forwarder subject to 49 U.S.C. subtitle IV, part B.

(b) *Overcharge* means an overcharge as defined in 49 U.S.C. 14704(b). It also includes duplicate payments as defined in paragraph (c) of this section and overcollections as defined in paragraph (d) of this section when a dispute exists between the parties concerning such charges.

(c) *Duplicate payment* means two or more payments for transporting the same shipment. Where one or more payment is not in the exact amount of the applicable tariff rates and charges, refunds shall be made on the basis of the excess amount over the applicable tariff rates and charges.

(d) *Overcollection* means the receipt by a household goods carrier of a payment in excess of the transportation and/or accessorial charges applicable to a particular shipment of household goods, as defined in part 375 of this chapter, under tariffs lawfully on file with the United States Department of Transportation's Surface Transportation Board.

(e) *Unidentified payment* means a payment which a carrier has received but which the carrier is unable to match with its open accounts receivable or otherwise identify as being due for the performance of transportation services.

(f) *Claimant* means any shipper or receiver, or its authorized agent, filing a request with a carrier for the refund of an overcharge, duplicate payment, or overcollection.

[43 FR 41040, Sept. 14, 1978, as amended at 44 FR 66832, Nov. 21, 1979; 51 FR 34989, Oct. 1, 1986; 51 FR 44297, Dec. 9, 1986; 62 FR 15424, Apr. 1, 1997]

### **§378.3 Filing and processing claims.**

(a) A claim for overcharge, duplicate payment, or overcollection shall not be paid unless filed in writing or electronically communicated (when agreed to by the carrier and shipper or receiver involved) with the carrier that collected the transportation charges. The collecting carrier shall be the carrier to process all such claims. When a claim is filed with another carrier that participated in the transportation, that carrier shall transmit the claim to the collecting carrier within 15 days after receipt of the claim. If the collecting carrier is unable to dispose of the claim for any reason, the claim may be filed with or transferred to any participating carrier for final disposition.

(b) A single claim may include more than one shipment provided the claim on each shipment involves:

(1) The same tariff issue or authority or circumstances,